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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,584	11/14/2000	Daniel Arturo Delfin Farias	SJO919990173	9711

24033 7590 09/29/2003

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EXAMINER

O CONNOR, GERALD J

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 09/29/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/712,584

Applicant(s)
Farias et al.

Examiner
O'Connor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on August 12, 2003 (RCE and Amdt "B").
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above, claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on November 14, 2000 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 12, 2003 (Paper N^o 13) has been entered.

Preliminary Remarks

2. This Office action responds to the amendment and arguments filed by applicant on August 12, 2003 (Paper N^o 13) in reply to the Office action mailed April 8, 2003.
3. The amendment of claims 1, 13, 18, 20, 32, 37, 39, 51, 56, and 58 by applicant in Paper N^o 13 is hereby acknowledged.
4. The addition of new claims 66-69 by applicant in Paper N^o 13 is hereby acknowledged.

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Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-38, 58-67 and 69 are rejected under 35 U.S.C. 102 as being clearly anticipated by the admitted prior art, as described in the written specification, since the claims read on the described prior art of performing the functions/steps manually, using a computer for some functions/steps, as opposed to the disclosed invention of a computer itself automatically performing the functions/steps.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 39-57 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graves et al. (US H1743).

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Graves et al. disclose a computer method for ordering products by means of a network of computers, which computer method clearly anticipates the instant claims, except that the method of Graves et al. involves only two entities (a manufacturer ordering directly from a supplier) rather than three entities (a manufacturer, receiving supplies from a distributor/middleman, the distributor/middleman first receiving the supplies from a supplier).

However, the third party distributors/middlemen are well known to those of ordinary skill in the art, hence, obvious elements to include in such a method. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the computer method of Graves et al. so as to duplicate its functionality, as required, to form a three link supply chain instead of a two link supply chain, in order to accommodate an intermediate third party, such as a distributor/middleman, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results, and since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Response to Arguments

9. Applicant's arguments filed August 12, 2003 have been fully considered but they are not persuasive.

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10. Regarding the arguments concerning an alleged rejection of claims 1-38 and 58-65 for being anticipated by Graves, the arguments have been disregarded as irrelevant, as no such rejection was made (though claims 39-57 were rejected for being obvious over Graves et al.).

11. Regarding the argument that Graves et al. fail to disclose receiving information from a supplier indicating a commitment quantity of a quantity the supplier intends to ship, Graves et al. indeed disclose receiving information from a supplier indicating a commitment quantity the supplier intends to ship. See, for example, column 16, lines 4-22, particularly lines 12-14.

12. Regarding the argument that Graves et al. fail to disclose that the acquiring entity receives a request from the supplier for information on the requested quantity from the product record in the database and transmits the requested information to the supplier in response to the request, Graves et al. indeed disclose that the acquiring entity receives a request from the supplier for information on the requested quantity from the product record in the database and transmits the requested information to the supplier in response to the request. See, in particular, column 7, lines 8-12.

13. Regarding the argument that Graves et al. fails to disclose updating the inventory database when the supplier receives the shipped products, it is noted that the features upon which applicant relies (i.e., supplier receiving the shipment) are neither recited in the rejected claims, nor disclosed in the specification.

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14. Regarding the argument that there is no suggestion to modify the reference(s), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, third party distributors/middlemen are well known to those of ordinary skill in the art, hence, obvious elements to include in any supply chain arrangement. Therefore, the motivation to modify the reference here is found, not in the Graves et al. disclosure *per se*, but in the knowledge generally available to one of ordinary skill in the art. See MPEP §2143.

15. Regarding the argument that Graves et al. fails to disclose receiving information from all three entities, the RSC, the acquiring entity, and the supplier, Graves et al. discloses only two entities (a manufacturer ordering directly from a supplier) rather than three entities (a manufacturer, receiving supplies from a distributor/middleman, the distributor/middleman first receiving the supplies from a supplier), but, as explained in the rejection, adapting the two-entity system to a three-entity system would be considered obvious to one of ordinary skill in the art.

16. Regarding the argument that Graves et al. only discloses *one* entity ordering products from their supplier when the entity's inventory falls below a given threshold rather than the claimed *two*

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entities each ordering from their respective suppliers, one of the entities being the supplier from which the other entity is ordering, Graves et al. discloses only two entities (a manufacturer ordering directly from a supplier) rather than three entities (a manufacturer, receiving supplies from a distributor/middleman, the distributor/middleman first receiving the supplies from a supplier), but, as explained in the rejection, adapting the two-entity system to a three-entity system, duplicating, where necessary, functionality such as ordering, would be considered obvious to one of ordinary skill in the art.

17. Regarding the argument that the method of Graves et al. teaches away because the processing unit 106 places the order with the supplier directly and determines when the supply arrives, the processing unit 106 of Graves et al., in fact, does order the supply and requests delivery on a particular date, but, as is well known to those of ordinary skill in the art of supply chains, it is the supplier that determines when the supply arrives, which may or may not be at the time/date it was supposed to be delivered. Thus were born the words “late” and “early.”

18. Regarding the argument that Graves et al. fail to disclose transmitting an input page to a supplier, Graves et al. indeed disclose transmitting an input page to a supplier. See, for example, column 10, line 28 et seq.

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19. Regarding the argument that Graves et al. fail to disclose generating a pre-shipment alert from the supplier, Graves et al. indeed disclose generating a pre-shipment alert from the supplier. See, for example, column 16, lines 4-22, particularly lines 12-14.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to the disclosure.

21. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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22. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(703) 305-1525**, and whose facsimile number is (703) 746-3976.

The examiner can normally be reached weekdays from 9:30 to 6:00.


Inquiries of a general nature or simply relating to the status of the application should be directed to the receptionist, whose telephone number is (703) 308-1113.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Robert Olszewski, can be reached at (703) 308-5183.

Official replies to this Office action may be submitted by any *one* of mail, fax, or hand delivery, *fax being preferred*. Mailed replies should be addressed to "Commissioner of Patents and Trademarks, Washington, DC 20231." **Faxed replies should be directed to (703) 872-9306** (fax-back auto-reply receipt service provided). Hand delivered replies should be left with the receptionist on the seventh floor of Crystal Park Five, 2451 Crystal Dr, Arlington, VA 22202.

GJOC

September 22, 2003

 9/25/03
ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600